PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO BELLO, ACCUSED-APPELLANT.

G.R. Nos. 130411-14. October 13, 1999

Ponente: MELO, Acting C.J.

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MELO, Acting C.J.:

In a highly conservative and religious society like ours, no crime is perhaps more repulsive and disgusting than incestuous rape, and much more so, rape by fathers of their minor daughters. As such, our Legislature has declared such offense undeserving of society's mercy, compassion, and leniency, providing, that the offense should rightfully carry with it the supreme penalty of death. Regrettably, the imposition of said penalty in the case at bar cannot be properly sustained due to the requirements of substantial justice and procedural rules not having been fully satisfied.

Accused-appellant was charged with four (4) counts of rape committed against his own legitimate daughter, Jenalyn A. Bello, committed on August 13, 14, 19, and 24, 1995. The first information alleged:

> That on or about the 13th day of August, 1995, in the City of Tacloban, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being the father of Jenalyn A. Bello, a minor, twelve (12) years of age, by means of force and intimidation, did, then and there wilfully, unlawfully and feloniously have carnal knowledge with Jenalyn A. Bello against her will, and consent, with the aggravating circumstance of relationship.
>
> CONTRARY TO LAW.
>
> (p. 9, Rollo.)

The three other informations were identically worded as the above information, except that they respectively charged that the rape therein committed occurred on August 14, 19, and 24, 1995.

At the arraignment on February 13, 1996, accused-appellant pleaded not guilty. Thereafter, the prosecution presented its side through the lone testimony of the victim which was summarized by the Office of the Solicitor General as follows:

> THE RAPE OF AUGUST 13, 1995
>
> Around 3 o'clock in the early morning of August 13, 1995, while Jenalyn was soundly sleeping in the bedroom of their house together with her two younger brothers, her drunken father woke her up and ordered her to go to the kitchen. She walked to the kitchen and he followed her. In the kitchen, he angrily ordered her to undress, promising to give her money. Realizing the evil intent of her father, she gently pleaded: "Do not do that". Gripped with fear, however, Jenalyn followed his command. Naked, he made her lie on a bench, laid on top of her and inserted his erect penis into her vagina. Feeling intense pain, she continued her plea: "Do not do that." But he paid no heed. She called for her mother, who was then sleeping at the sala, but to no avail. Jenalyn could not do anything but submit herself to the evil desires of the man whom she feared and from whose hands she suffered several punishments. Appellant succeeded in having carnal knowledge of his own daughter.

(pp. 2-3, Appellee's Brief.)

THE RAPE OF AUGUST 14, 1995

Around 1 o'clock in the early morning of August 14, 1995, appellant woke up Jenalyn and sternly whispered: "Do not say anything. Do not tell your mother. Anyway, you are not a virgin anymore." He, thereafter, ordered her to undress. At that time, Jenalyn's mother was at the public market selling fish to the early fish buyers.

When she was already naked, appellant placed himself on top of her and inserted his private organ into hers. Jenalyn repeatedly pleaded: "Father, do not do that!" He did not mind her. Instead, and in a jeer his father remarked: "Why are you saying that, anyway you are no longer a virgin like your elder sister" (appellant was obviously referring to his daughter Juliet Bello who was also victimized by him, but lucky to escape his clutches). After he was through with his sexual carnage, appellant just left the room.

Jenalyn cried the whole day, but her mother did not even ask what was bothering her. Sensing that her mother knew what was happening, Jenalyn lost the courage to approach and tell her about the matter.

(pp. 3-4, Appellee's Brief.)

THE RAPE OF AUGUST 19, 1995

Around 3 o'clock in the morning of August 19, 1995, appellant replayed the sexual assault upon Jenalyn at the kitchen of their abode while his wife was sleeping at the sala. After threatening her, he compelled her to lie on the floor. Appellant positioned himself and inserted his erect organ into her vagina enjoying his bestial act. Unable to bear the pain, she repeated her plea: "Father, do not do it anymore." Appellant bluntly replied: "Do not say anything." Her mother's lack of concern and her own fear for her father, muted Jenalyn from crying for help.

(p. 4, Appellee's Brief.)

THE RAPE OF AUGUST 24, 1995

Around 9 o'clock in the morning of August 24, 1995, Jenalyn was at Sankalan Elementary school to attend her first periodical examination. Realizing that she did not have enough paper for the examination, she returned home to ask money from her mother to buy paper. When she reached home, she saw her father and brother J.R. She went straight to their comfort room as she had then her menstrual period. From there, she proceeded to their bedroom to get something. Her father followed her and asked if she still had classes. She answered in the affirmative. Thereafter, he ordered her to undress. She refused, saying "Father, don't do that because I have my menstruation, besides, we are having now our periodical tests." Appellant insisted that she undress. Afraid of his usual maltreatment, Jenalyn gave in. After satisfying his lust, appellant just left his devastated daughter.

(p. 5, Appellee's Brief.)

On April 16, 1996, the scheduled date of the cross-examination of the complainant, accused-appellant, through his counsel de oficio, manifested that he wished to withdraw his earlier plea of not guilty and to substitute the same with one of guilty. Convinced that accused-appellant understood the consequences of his change of plea, the Honorable Mateo M. Leanda, presiding judge of Branch 8 of the Regional Trial Court of the 8th Judicial Region stationed in Tacloban City, allowed the same to be entered in the record of the four rape cases. The defense proceeded to cross-examine complainant and thereafter presented accused-appellant for the purpose of proving mitigating circumstances. Later, accused-appellant moved for the reinstatement of his plea of not guilty, but this was denied by the trial court in its order dated October 4, 1996.

On November 21, 1996, the trial court rendered judgment finding accused-appellant guilty of four counts of rape, and disposed as follows:

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> WHEREFORE, IN THE LIGHT OF ALL THE FOREGOING, this Court finds accused RODRIGO BELLO, alias "Rudy", guilty beyond reasonable doubt, as principal, of the consummated four counts of RAPE, as defined and penalized under Art. 225 of the Revised Penal Code, as amended by Republic Act No. 7659, and he is hereby sentenced accordingly to suffer the supreme penalty of DEATH, for each count. In addition thereto, the accused's estate, if any, is ordered to indemnify the offended party, JENALYN A. BELLO, the sum of fifty thousand (P50,000.00) pesos, for each count of rape, as the subjects of this case, or the total amount of two hundred thousand pesos (P200,000.00). The accused's properties is also condemned to pay exemplary damages to the complainant in the sum of P20,000.00 per count, or a total of eighty thousand (P80,000.00) pesos, in all.
>
> With costs de oficio.
>
> (pp. 35-36, Rollo.)

Accused-appellant assails said judgment, arguing that the trial court erred in: (a) convicting accused-appellant despite the failure of the prosecution to prove his guilt beyond reasonable doubt, and (b) in not allowing him to present additional evidence.

After a meticulous and objective evaluation of the record of this case, this Court is of the carefully considered opinion that the court a quo failed to observe the required procedure for cases where the accused pleads guilty to a capital offense.

Section 3, Rule 116 of the Revised Rules on Criminal Procedure is explicit that "when the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf." Under this Rule, three things are enjoined upon the trial court when a plea of guilty to a capital offense is entered: (1) the court must conduct a searching inquiry into the voluntariness of the plea and the accused's full comprehension of the consequences thereof; (2) the court must require the prosecution to present evidence to prove the guilt of the accused and the precise degree of his culpability; and (3) the court must ask the accused if he desires to present evidence on his behalf and allow him to do so if he desires (Pamaran, Manuel, R., 1995 Rules on Criminal Procedure, Annotated, Rules 110-127, 1998 Edition, p. 307, citing People vs. Camay, 152 SCRA 401 [1987]). This procedure is mandatory and a judge who fails to observe it commits grave abuse of discretion (People vs. Dayot, 187 SCRA 637 [1990]).

In People vs. Albert (251 SCRA 293 [1995]), we pointed out that the rationale behind the aforequoted rule is that courts must prove with more care wherever the possible punishment is in its severest form — death — for the reason that the execution of such a sentence is irrevocable and experience has shown that innocent persons have at times pleaded guilty.

A careful perusal of the record of this case reveals a measure of shortcoming on the part of the trial court to explain fully to accused-appellant the consequences of his plea of guilty, the trial court failing as it did to conduct the requisite searching inquiry so as to determine whether accused-appellant's plea possessed all the requirements of an acceptable one. The proceedings below on this point transpired as follows:

> ATTY. ESBER:
>
> For the accused. Before I proceed to cross-examine the witness, the accused intimated to me that he be allowed to change his previous plea of not guilty to "yes guilty."
>
> COURT:
>
> ORDER

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> Before the cross-examination of the complainant in her joint testimony for all the four (4) rape cases, the defense counsel moved the Court that the accused be allowed to withdraw his former plea of "Not Guilty" to the charge of "Rape" and substitute the same with that of "Yes Guilty."
>
> There being no objection from the prosecution, let the accused be re-arraigned.
>
> SO ORDERED.
>
> INTERPRETER:
>
> Accused pleading guilty, Your Honor.
>
> ATTY. ESBER:
>
> With the change of the plea of the accused from a former plea of "Not Guilty" to "Yes Guilty" to the four (4) counts of Rape, that a lesser penalty of reclusion perpetua instead of death be imposed.
>
> PROS. CAÑA:
>
> In the meanwhile, we would like to be allowed to present evidence if only to determine the degree of the culpability of the accused pursuant to the Rules of Court.
>
> COURT:
>
> ORDER
>
> After the re-arraignment, the accused voluntarily pleaded guilty to the four (4) counts of Rape. However, the Court insisted that Fiscal Caña should continue presenting the evidence constituting the testimony of complainant to comply with the requirements of law on procedure to determine the gravity of the offense charged and, likewise, the defense is required to present evidence to satisfy the requirement of the law.
>
> SO ORDERED.
>
> (tsn, April 16, 1996, pp. 2-3.)

Evidently, there is no showing that accused-appellant was put on the stand for purposes of inquiring whether he fully comprehended the legal consequences of his plea of guilt. The original record of this case is completely bereft of any document concerning accused-appellant's supposed re-arraignment. We cannot presume that the re-arraignment of accused-appellant was regularly conducted. We cannot lean on this rebuttable presumption especially when a man's life is at stake. We cannot anchor our judgment based on mere speculations and conjectures. Rather, we must be positively convinced. Where a capital offense like incestuous rape becomes the subject of a positive plea, it becomes imperative for the trial court to administer a searching inquiry and receive evidence undisputably showing that the accused admits his guilt freely, voluntarily, and with full knowledge of the consequences and meaning of such a plea (People vs. Albert, supra). And a plea of guilty is improvidently accepted where no effort is even made to explain to the accused that a plea of guilty to an information for a capital offense may result in the imposition of the death penalty (People vs. Derilo, 271 SCRA 633 [1997]).

A "searching inquiry", under the Rules, means more than informing cursorily the accused that he faces a jail term but so also, the exact length of imprisonment under the law and the certainty that he will serve time at the national penitentiary or a penal colony. Not infrequently indeed, an accused pleads guilty in the hope of a lenient treatment, or upon bad advice, or because of promises of the authorities or parties of a lighter penalty should he admit guilt or express remorse. It is the duty of the judge to see to it that the accused does not labor under these mistaken impressions (People vs. Dayot, supra).

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Although there is no definite and concrete rule as to how a trial judge may go about the matter of a proper "searching inquiry", it would be well for the court, for instance, to require the accused to fully narrate the incident that spawned the charges against him, or by making him reenact the manner in which he perpetrated the crime, or by causing him to furnish and explain to the court missing details of significance (People vs. Estomaca, 256 SCRA 429 [1996]). In the case under review, the record does not reveal any information about the personality profile of accused-appellant which can serve as a trustworthy index of his capacity to give a free and informed plea of guilt. Questions pertaining to the age, socio-economic status, and educational background of accused-appellant which may provide contributory insights for a proper verdict in this case were not propounded by the trial court.

Further, the trial court did not bother to explain to accused-appellant the essential elements of the crime of rape pursuant to Section 11 of Republic Act No. 7659 violation of which he was charged with. The trial judge also failed to inform accused-appellant that he would be made to indemnify his victim. As a result, accused-appellant was not properly accorded his fundamental right to be informed of the precise nature of the accusation against him, which is an integral aspect of the due process clause under the Constitution (People vs. Sevilleno, G.R. No. 129058, March 29, 1999).

Likewise, there is no showing that accused-appellant was specifically warned that on his plea of guilty, he would definitely and in any event be given the death penalty under Republic Act No. 7659. He was categorically advised that his plea of guilty would not under any circumstance affect or reduce the death sentence as he may have believed or as it may have been erroneously suggested to him. Such mistaken belief on the part of accused-appellant which may have impelled him to plead guilty is demonstrated in his testimony, to wit:

> PROS. CAÑA:
>
> Q: Knowing the contents of the four Informations during the re-arraignment, you pleaded "Guilty" to each of them?
>
> A: I was afraid because, according to them, I will be hanged and I do not want to be hanged because who will support my wife and my children. My wife has no work.
>
> (tsn, May 9, 1996, p. 6.)
>
> COURT:
>
> Q: As a whole, you deny these four (4) incidents of Rape you have committed against your daughter?
>
> A: I do not know about that.
>
> Q: Inspite of the fact that previously you entered a plea of "guilty" to each of these four (4) counts?
>
> A: Because I am afraid, I might be killed.
>
> (tsn, ibid., p. 5.)

These repeated and emphatic declarations of accused-appellant should have attracted the attention of the trial court that accused-appellant did not have full knowledge of the consequences of his plea. The trial judge at this instance should have informed and forewarned accused-appellant, in ordinary language, of three things: First, that accused-appellant's plea of guilty cannot be considered mitigating as it was made after the presentation of the evidence for the prosecution, thus, foreclosing the application of Paragraph 7, Article 13 of the Revised Penal Code. Second, that the penalty of death shall be imposed when the rape is committed by a father against a minor daughter, in accordance with Section 11 of Republic Act No. 7659. Third, that inasmuch as death is a single

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indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstance that may have attended the commission of the offense, as provided by Article 63 of the Revised Penal Code. Verily, accused-appellant cannot be reasonably expected to fully understand all the implications of his plea without the necessary detailed elucidation on the part of the trial judge. Clearly, the latter failed to observe the quantum of care which the Court had prescribed for the valid admission of a plea of guilty by an accused. As a dispenser of justice, the trial judge should have endeavored to discharge his duties competently and efficiently so as not to erode public confidence in the judiciary.

Finally, a plea of guilty must be an unconditional admission of guilt. It must be of such nature as to foreclose the defendant's right to defend himself from said charge, thus leaving the court no alternative but to impose the penalty fixed by law (People vs. De Luna, 174 SCRA 204 [1989]). An accused may not foist a conditional plea of guilty on the court in the sense that he admits his guilt provided that a certain penalty will be meted unto him. Likewise, a formal plea of not guilty should properly be entered if an accused admits the truth of some or all the allegations of the information, but interposes excuses or additional facts which, if duly established would exempt or relieve him in whole or in part of criminal responsibility (People vs. Albert, supra). The ungrammatical answers of accused-appellant to equally fractured questions during his direct examination is, on this point, revealing:

> ATTY. ESBER:
>
> Q: What happened to Jenalyn, who is now being a subject matter of this case? The question now is: Is it your own will that what happened to Jenalyn is intentionally done by you?
>
> A: No, sir.
>
> Q: Why do you say that it was not done intentionally by you?
>
> A: Because, that time, I was drank. I usually do not drink. I am not a habitual drinker.
>
> Q: As a follow-up question. Do you mean to convey that because you were drank at that time you do not know what you were doing?
>
> A: No, sir.
>
> (tsn, May 9, 1996, p. 4.)
>
> COURT:
>
> Q: One of the charge against you for Rape was allegedly committed, according to the Information, was on August 13, 1996, do you know that?
>
> A I do not know, Your Honor.
>
> Q So, you do not know what happened to you and your daughter on this particular date of August 13, 1995?
>
> A I do not know. I was not even at home on that day.
>
> Q Where were you then?
>
> A I was at my place of work.
>
> Q Did you, at any time, met your daughter and have a contact with her on said date the whole day?
>
> A No, sir, because I have an overtime with my work.
>
> Q Your daughter testified in court that she was raped by you on August 13, 1995, was she telling a lie?

A Yes, she was telling a lie because she is being coached by her sister and by her aunt.

Q Your daughter testified in court under oath that on August 13, 1995, at 10 o'clock in the evening, while she was in the bedroom, she was awakened by you and you inserted your penis in her vagina, is this true?

A That is a lie because my wife, myself and my daughter are sleeping together.

Q Your daughter further testified that on August 14, 1995, at 1 o'clock in the early morning, you requested her to boil water in her kitchen because you were drank, you took advantage of her, you layed her down and took advantage of her. Did you hear that statement of your daughter here in court?

A Yes, I have heard the testimony but I did not do it.

Q Another incident. On August 19, 1995, at 3 o'clock in the early morning, you woke her up while she was sleeping in the bedroom and then told her to go to the kitchen, and while at the kitchen you commanded her to undress, and then you even told her that before you will die you should be able to abuse herself first or have sexual intercourse with her. Did you hear that statement of your daughter here in court?

A She is telling a lie.

Q As a whole, you deny these four (4) incidents of Rape you have committed against your daughter?

A I do not know about that.

Q Inspite of the fact that previously you entered a plea of "Guilty" to each of these four (4) counts?

A Because I am afraid, I might be killed.

(tsn, p. 5, May 9, 1996.)

It is without doubt that accused-appellant was adamant in his denial of the charges filed against him. Such being the case, the trial court should have required accused-appellant to plead anew to the charges, or at least, it should have directed that a new plea of not guilty be entered for him since said testimony had the effect of vacating his plea of guilty. Thereafter, the court a quo should have proceeded with the trial of the case to determine the guilt or innocence of accused-appellant (People vs. Balisacan, 17 SCRA 119 [1966]).

Let it be clearly understood that the administration of justice, including among other things, the punishment of guilty persons and the protection of the innocent, is the very reason for the existence of courts. While justice demands speedy administration, courts are in duty bound to be extra solicitous in seeing to it that when an accused pleads guilty he understands fully the meaning of his plea and the import of his inevitable conviction. Any court which abets injustice or neglects to ascertain the truth with the use of all the faculties at its command abdicates its most important function and forfeits its very right to existence (Nitafan, David G., Arraignment in Serious Offenses, 251 SCRA 161 [1995]).

WHEREFORE, the judgment of the court a quo convicting accused-appellant Rodrigo Bello of four counts of rape is hereby vacated. The four rape cases are REMANDED to the court of origin for proper arraignment and trial of the accused, with instructions that the same be given topmost priority and the proceedings therein be conducted with deliberate dispatch and circumspection.

SO ORDERED.

Puno, Vitug, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

Davide, Jr., C.J., Bellosillo, and Kapunan, JJ., on leave on official business.

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